

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

LARRY BARBER

Plaintiff

---

Case number

v.

TIM HORTON CORPORATION

Jury requested

Defendant

and

JOHN DOE (owner/management company)

Defendant

and

JOHN DOE (manager)

Larry Barber, Pro Se  
1701 Heatherwood Drive  
#104  
Inkster, Mi. 48141  
(734)833-8158, lbarber401@yahoo.com

---

### **COMPLAINT**

NOW COMES Plaintiff, Larry Barber, who submits his complaint and states as follows:

There is no other actions or cases involving the parties in Wayne County

### **JURISDICTION**

1. This Court has jurisdiction over the subject matter of this action pursuant

to 28 U.S.C. 1331 and 1343 for Plaintiff's claims arising under federal law,

and supplemental jurisdiction pursuant to 28 U.S.C. 1337 for Plaintiff's claims

under state law

2. Venue is proper in this district pursuant to 28 U.S.C. 1331(b) because

Defendants have sufficient contacts with this district to subject them to personal

jurisdiction at the time this action was commenced. and the acts or omissions

giving rise to this Complaint occurred within this District

## **FACTS**

3. Plaintiff is a profoundly deaf individual

4. Due to his disability, Plaintiff's ability to communicate in English is limited

5. Plaintiff is mobility impaired

6. On March 01, 2022, Plaintiff attempted to utilize the drive-thru of the

Dearborn location Tim Horton. Could not hear so he proceeded to the

window to place order

7. Rather than accommodate Plaintiff's disability and allow him to place a drive-

thru order in this way, the Tim Horton store manager

( upon information and belief )

appeared at the drive thru window and berated Plaintiff for utilizing the drive thru

and for placing his order at the window

8. Plaintiff left location without having having received any service or products

9. March 04, 2022, Plaintiff attempted to utilize the drive-thru of the Dearborn

location, again being told they would not accept his order at drive thru even

though he explained his disabilities

10. March 08, 2022, Plaintiff attempted to utilize drive thru and Plaintiff,s order

was not processed, and not one Tim Horton employee communicated with

Plaintiff in any way leaving Plaintiff humiliated, frustrated and confused

11. March 11, 2022, Plaintiff had another person call the store and ask to speak

to the manager a person who said their name was Tim was the manager who

said

they would not let anyone order at window regardless of disability

12. March 16, 2022 Plaintiff attempted to utilize the drive-thru at the Dearborn

Tim Horton and again Plaintiff was told they would not accept the order at the

window this time was told to park and come inside , Plaintiff explained he was

mobility impaired, but parked anyway and found doors locked

13. March 23, 2022 Plaintiff attempted to utilize the drive-thru at the Dearborn  
Tim

Horton and was told they would not accept order regardless of disability at  
window

could come inside, Plaintiff parked and found doors locked

14. Plaintiff has ledt the Dearborn Tim Hortons on many occassions without

being served

15. Based on the incidents described above, Defendants refuse to serve deaf

individuals in the same manner in which they serve hearing individuals

16. Tim Hortons drive-thru ordering system, which requires a customer to utilize

hearing and speaking, is inaccessible to deaf individuals. Based on the incidents

described above, Defendants offer no accessible or alternative means for deaf

individuals, including Plaintiff to utilize drive-thru in a manner equal to the service

offered to hearing individuals

17. Defendants conduct caused Plaintiff to be denied the full and equal

enjoyment of Defendant's goods, services, facilities, privileges, advantages

and or accommodations

18. Defendants discriminatory conduct caused Plaintiff to suffer emotional

distress, including humiliation and frustration

19. Plaintiff made several calls to corporate customer service

20. Plaintiff made calls to Tims tips
21. Plaintiff made calls to store location
22. All calls had no results

#### **VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT**

23. Plaintiff repeats and realleges all preceding paragraphs in support of this claim
24. At all times relevant to this action, Title 111 of the ADA, 42U.S.C. 12181 has been in full force and effect and has applied to Defendants conduct
25. At all times relevant to this action, Plaintiff has been substantially limited in the major life activities of hearing and walking, and is an individual with a disability within the meaning of the ADA, 42 U.S.C. 12102(2)
26. Defendants own, lease and or operate a place of public accommodations

within the meaning of Title III of the ADA, 42 U.S.C. 12181(7)(D)

27. Title III of the ADA provides that " no individual shall be discriminated against

on the basis of disability in the full and equal enjoyment of the goods, services,

facilities, privilages, advantages or accommodations of any place of public

accommodation by any person who owns, leases or operates a place of public

accommodation " 42 U.S.C. 12182(a)

28. Title III of the ADA further provides that " it shall be discriminatory to afford

an individual or class of individuals , on the basis of a disability or disabilities

of such individual or class, directly or through contractual, licensing or other

arrangements with the opportunity to participate in or benefit from a good,

service, facility,privilage, advantage or accommodation that is not equal to

that afforded to other individuals " 42 U.S.C. 12182(b)(1)(A)(ii)

29. Title III of the ADA further defines discrimination to include " a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services "

42 U.S.C. 12182(b)(2)(A)(iii)

30. Title III of the ADA further defines discrimination to include " a failure to remove architectural barriers, and communication barriers that are structural in nature,in existing facilities...where such removal is readily achievable " or " where an entity can demonstrate that the removal of a barrier...is not readily achievable a failure to make such goods, services, facilities, privilages, advantages

or accommodations available through alternative methods if such methods are readily achievable " 42 U.S.C. 12182 (b)(2)(A)(iv-v)

31. Federal regulations implementing Title III of the ADA provide that " a public accommodation shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities "

28 C.F.R. 36.303(c)

32. Defendants discriminated against Plaintiff on the basis of disability, in violation of Title III of the ADA and its implementing regulations as set forth above

33. Plaintiff is therefore entitled to injunctive relief, as well as an award of attorneys fees, costs and disbursements pursuant to the ADA, 42 U.S.C.

12188(a)(1)

**VIOLATION OF THE MICHIGAN PERSONS WITH DISABILITIES**

**CIVIL RIGHTS ACT**

34. Plaintiff repeats and realleges all preceding paragraphs in support of this  
claim

35. At all times relevant to this action , the Michigan Persons with Disabilities

Civil Rights Act M.C.L. 37.1302 has been in full force and effect and has applied  
to the Defendants conduct

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully prays that this Court grant the following

relief :

a. Enter a declaratory judgement, stating that Defendants have subjected

Plaintiff to unlawful discrimination in violation of Title III of the Americans with

Disabilities Act and Michigan Persons with Disabilities Civil Rights Act

b. Enjoin Defendants from implementing or enforcing any policy,

procedure, or practice that discriminates against deaf and hard of hearing  
individuals

c. Order Defendants:

1. To develop, implement, promulgate, and comply with a policy

prohibiting future discrimination against Plaintiff or other deaf or

hard of hearing individuals by failing to provide effective

communication

2. To develop, implement, promulgate, and comply with a policy

to ensure that Defendants will consider the communication needs

of deaf individuals who seek Defendants goods and / or services

and will affirmatively work with deaf individuals to provide effective

auxiliary aids and services to make their services accessible

3. To train all its employees, staff, and other agents on a regular

basis about the rights of individuals who are deaf or hard of hearing

under the ADA and the PWD CRA

d. Award to Plaintiff:

1. Compensatory damages

2. Punitive damages

3. Reasonable costs and attorney fees

4. Interest on all amounts at the highest rates and from the

earliest dates allowed by law

5. Any and all other relief this Court finds necessary and

appropriate

**JURY DEMAND**

Plaintiff demands trial by jury for all the issues a jury properly may decide and for  
all the requested relief a jury may award

Respectfully submitted,

03/27/2022

Date



Larry Barber

1701 Heatherwood Dr.

#104

Inkster, Mi. 48141

734-833-8158

[lbarber401@yahoo.com](mailto:lbarber401@yahoo.com)

JS 44 (Rev. 10/20)

## CIVIL COVER SHEET

County in which action arose: Wayne

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Larry Barber

## DEFENDANTS

Tim Hortons Inc

## (b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

WayneOntario

## (c) Attorneys (Firm Name, Address, and Telephone Number)

Larry Barber 734 833 81581701 Heatherwood Dr. 104 / 11054701

## County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

## Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	<input checked="" type="checkbox"/> PTF 1	<input type="checkbox"/> DEF 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> PTF 4	<input checked="" type="checkbox"/> DEF 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tain (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Product Liability	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 Other Fraud	<input type="checkbox"/> 861 HIA (1395I)	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 405 Truth in Lending	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 410 Other Personal Property Damage	<input type="checkbox"/> 863 DIWC/DLWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<b>Habeas Corpus:</b>	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Act.
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 446 Amer. w/Disabilities - Other	<b>Other:</b>		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

## V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
--	---	--	---	--	--	---

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC 12101

## VI. CAUSE OF ACTION

Brief description of cause:

Failure to Serve Deft

## VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

## DEMANDS

75<sup>00</sup> +

CHECK YES only if demanded in complaint:

JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/27/2022

SIGNATURE OF ATTORNEY OF RECORD

La Ba

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes  
 No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes  
 No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

Notes :

\_\_\_\_\_

\_\_\_\_\_